

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,)	
)	
)	
Plaintiff,)	
)	
VS.)	
)	C. A. No: 05-11073 NG
METROPOLITAN LIFE)	
INSURANCE COMPANY, KEMPER)	
INSURANCE COMPANY,)	
MORGAN STANLEY DW, INC.,)	
MICHAEL B. LATTI, LATTI)	
ASSOCIATES, and LATTI &)	
ANDERSON LLP,)	
)	
Defendants.)	
)	

**METROPOLITAN LIFE INSURANCE COMPANY'S
MOTION IN LIMINE
TO PRECLUDE TESTIMONY AT TRIAL FROM JOHN L. NOE**

ORAL HEARING REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter "MetLife"), moves for an Order to preclude John L. Noe from testifying at trial.

During discovery, MetLife noticed the deposition of Mr. Noe and diligently attempted to locate them. This was known to Plaintiff and Kemper, and MetLife also asked for names and addresses of any trial witnesses in its Interrogatories to both Plaintiff and Kemper. Mr. Noe was essentially concealed from MetLife, preventing MetLife from deposing him during the discovery period. His address was disclosed by Plaintiff only after the discovery was closed. Neither Plaintiff nor Kemper supplemented their Answers to the Interrogatories or Initial Disclosures, knowingly preventing MetLife from deposing him. Having had no opportunity to depose this

potential witnesses, MetLife will be greatly prejudiced by his testimony at trial, and Plaintiff and Kemper will be rewarded for hiding their trial witness until the eve of trial.

WHEREFORE, Metropolitan Life Insurance Company prays that this Court issue an Order to preclude John L. Noe from testifying at trial.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests that, pursuant to Local Rule 7.1(D), the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 12, 2008.

/s/ Peter M. LeBlanc

Peter M. LeBlanc